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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|-----------------------------|
| 09/317,388 | 05/24/1999 | JOSEPH D. SMITH | ELITE-001 | 9038 |
| 26604 | 7590 | 02/26/2003 | | |
| KENNETH L. NASH P.O. BOX 680106 HOUSTON, TX 77268-0106 | | | | EXAMINER SMITH, SHEILA B |
| | | ART UNIT 2685 | | PAPER NUMBER 14 |
| | | | | DATE MAILED: 02/26/2003 |

Please find below and/or attached an Office communication concerning this application or proceeding.



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| APPLICATION NO./ CONTROL NO. | FILING DATE | FIRST NAMED INVENTOR / PATENT IN REEXAMINATION | ATTORNEY DOCKET NO. |
|---------------------------------|-------------|---|---------------------|

EXAMINER

ART UNIT PAPER

14

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/317,388

Applicant(s)

SMITH ET AL.

Examiner

Sheila B. Smith

Art Unit

2685

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-67 is/are pending in the application.
 - 4a) Of the above claim(s) 9 is/are withdrawn from consideration.
- 5) Claim(s) 20-45 and 51-67 is/are allowed.
- 6) Claim(s) 1-4, 7-19, 46-50 is/are rejected.
- 7) Claim(s) 5 and 6 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some *
 - c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|--|
| <ol style="list-style-type: none"> 1)<input type="checkbox"/> Notice of References Cited (PTO-892) 2)<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3)<input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. | <ol style="list-style-type: none"> 4)<input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____. 5)<input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6)<input type="checkbox"/> Other: _____. |
|--|--|

DETAILED ACTION

1.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1, 2, 4, 7-10, 12,14-15, 18, and 46-50, rejected under 35 U.S.C. 102(e) as being anticipated by Gaukel (U. S. Patent Number 6,072,396).

Regarding claims 1,2,4,8,9,10,12,14,15,18, 47-50, Gaukel discloses essentially all the claimed invention as set forth in the instant application, further Gaukel discloses apparatus and method for continuous electronic monitoring and tracking of individuals. Additionally, Gaukel discloses a monitoring device (30), a microcontroller (36),a microcontroller (36) having no port that allows access for reading programming of microcontroller (the examiner contends the only things connected to the microcontroller is the battery (38) for providing power to operate the

microcontroller, and the GPS (32) is used to receive the ranging signals from the GPS satellites and transferred to the microcontroller (36) the microcontroller has no ports that allow access for reading it's programming), a cellular phone (34) and modem (34), which reads on "pager and pager modem" a GPS (32) and cable (68) between monitoring device (30) and wristband (20), which reads on "interface between said monitoring device and target for communication signals relating to said target" as disclosed in column 14 lines 22-40 and as exhibited in figure 1.

Regarding claims 7, 46, Gaukel discloses a microcontroller is programmed in a low level language closely related to and architecture of said mocrocotoller as disclosed in column 3 lines 40-50.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 3,11,16,17,19, are rejected under 35 U.S.C. 103(a) as being unpatentable over Gaukel (U. S. Patent Number 6,072,396).

Regarding claims 3, Gaukel discloses essentially all the claimed invention as set fourth in the instant application. However, Gaukel fails to specifically teach that a pager modem and microcontroller operable for sending email messages over pager network.

However, the examiner takes official notice of the fact that it is well known to us a modem for sending email messages over a network.

Therefore, it would have been obvious to one of ordinary skill at the time of the invention to modify the apparatus and method for continuous electronic monitoring and tracking of individuals to us a modem for sending email messages over a network, for the purpose of communicating with the target.

Regarding claims 11,16,17,19, Gaukel discloses essentially all the claimed invention as set fourth in the instant application. However, Gaukel fails to specifically teach that a computer having an internet connection, one or more computers being operable for communication over said internet and through said pager network to detect said target signal.

However, the examiner takes official notice of the fact that it is well known to us a computer to communicate over said internet and through networks.

Therefore, it would have been obvious to one of ordinary skill at the time of the invention to modify the apparatus and method for continuous electronic monitoring and tracking of individuals to us a computer to communicate over said internet and through networks, for the purpose of utilizing the wireless network for communicating with the target.

Allowable Subject Matter

2. Claims 5, 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

3. Claims 20-45, and 51-67 allowed.

Response to Arguments

4. Applicant's arguments with respect to claims 1-4, 7-19, 46-50 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheila B. Smith whose telephone number is (703)305-0104. The examiner can normally be reached on Monday-Thursday 8:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban can be reached on 703-308-5318. The fax phone numbers for the organization where this application or proceeding is assigned are (703)308-6306 for regular communications and (703)308-6296 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-4700.

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Art Unit: 2685

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S. Smith
February 20, 2003



EDWARD F. URBAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600